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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,851	07/22/2003	Joshua Matthew Lipton		6419

7590 01/13/2005

Joshua Lipton
2370 W. Rock Island Avenue
Flagstaff, AZ 86001

EXAMINER

LUM VANNUCCI, LEE SIN YEE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/623,851	Applicant(s) LIPTON, JOSHUA MATTHEW	
	Examiner Lee Lum	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 27 is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. An Amendment was filed 11/23/04.
2. The disclosure is objected to because of the following issues:

In the Spec, p 5, under "Description of the Drawings", fig 3 has not been indicated that it is "Prior Art", as labeled in the figure.

In the Claims, the following elements lack antecedent basis:

In Claims 3, 14, 21, 26 and 27 – edges,

In Claims 5, 16, 23, 26 and 27 – (their) front, top and rear edges,

In Claim 11 – bottom, extendable arms (i.e., only single "arm" previously recited),

In Claim 27 – rear end.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claims 12 and 26, it is unclear what the invention comprises, i.e., it is unclear if the invention comprises the "container" AND "bicycle trailer" (i.e., a combination as recited in Claim 19), or just the "container", or otherwise. Amendment is required.

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Swan 5501333.

Swan discloses a collapsible shipping container 10 comprising

Base frame 16,

First and second side panels 20,

Each panel comprised of a plurality of subpanels 134/138, 144/146 (fig 7)
hingedly joined (c3, last paragraph) so that each panel may be collapsed (fig 9, and c3,
In 50-51), or unfolded to a use position, and,
Cover 34 secured between the panels.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

A. **Claims 2 and 8-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Swan in view of McCarthy 5330217.

Re **Claim 2**, Swan does not disclose brackets, and means for mounting a bicycle frame to the base frame, while McCarthy shows these features;

front brackets 97/107 (fig 2), and rear bracket (fig 2; unidentified horizontal frame elements towards rear of trailer), including attaching means 50 for the base frame, and, means 29 (fig 2) for mounting a bicycle frame to the base frame.

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It would have been obvious to one with ordinary skill in the art at the time the invention was made to include these features, as shown in McCarthy, to connect transportation means, such as wheels, to the container, so that the container may be moved. McCarthy specifically provides this arrangement in c7, fourth complete paragraph, with emphasis on "a suitably shaped container could be mounted inside the trailer module 101". This is an obvious inclusion so to provide protection for the cargo during transport.

Additionally, Swan discloses means for mounting a bicycle frame into a fixed position with recesses 58, 60 (c3, ln 1-2, and ln 5-8).

Re **Claims 8 and 9**, Swan does not disclose the base frame as a bicycle trailer, while McCarthy shows this vehicle 31 with wheels. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this configuration, as shown in McCarthy, to increase efficiency and decrease costs, by allowing the base frame to serve as a component of a trailer. McCarthy provides this arrangement in c7, fourth complete paragraph.

Re **Claim 10**, neither references specify that the wheel may be replaced with one of smaller diameter, but it would have been obvious to change the size of the wheel so that a particular load may be properly accommodated, and weight of the invention is decreased to minimize costs of shipping. It is clear that a particular type of wheel, i.e.; spoked or otherwise, is immaterial so long as the wheel accommodates the specific application.

B. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Swan in view of Brinkley 5810378.

Re **Claim 3**, Swan does not disclose a flexible tensioner attached to the panels, while Brinkley shows these elements 73/74 (c5, ln 20-30) attached to the panels. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include these elements, as shown in Brinkley, to provide proper and low-cost fastening for the container so to increase its structure, and provide means for attachment to another structure, such as a vehicle.

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Re **Claim 4**, Swan does not disclose casters secured to the base frame, while Lickton shows these wheels 46. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this feature, as shown in Lickton, to provide increased support for the container/trailer during transport outside of shipping, thus decrease damage.

C. **Claims 4 and 5** are rejected under 35 U.S.C. 103(a) as being unpatentable over Swan in view of Kuo 5593259.

Re **Claim 4**, Swan does not disclose casters, while Kuo shows these wheels 14. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this arrangement, as shown in Kuo, to facilitate transport of the container in an efficient and low-cost manner, and as is well-known.

Re **Claim 5**, Swan does not disclose at least one crossbar securing the cover between the side panels, while Kuo shows these bars 42 in fig 2. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include these components, as shown in Kuo, to provide additional support for the container so to maximize structural strength, and minimize damage to the bicycle during shipping.

D. **Claims 12, 13, 19 and 20** (12 as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Swan in view of McCarthy.

Re **Claims 12 and 13**, Swan discloses, as discussed above, a collapsible shipping container 10 comprising

Frame 16,

First and second collapsible side panels 20, each panel including hinged subpanels 134/138, and,

Cover 34.

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Swan does not disclose the container *for use with* a bicycle trailer. McCarthy shows, as previously discussed, bicycle trailer 31 with

floor (unidentified, c7, fourth complete paragraph) defining a compartment (i.e., container),

spoked wheels,

front bracket 97/107, and rear bracket (unidentified in fig 2), and,

means 29 (fig 2) for mounting a bicycle frame.

It would have been obvious to one with ordinary skill in the art at the time the invention was made to include a trailer, as shown in McCarthy, so that the container may be easily transported by a bicycle, prior to/after the bicycle is shipped in the container, as best understood. This dual-purpose configuration is efficient and low-cost.

Swan and McCarthy do not disclose the wheel(s) as being replaceable with one that is smaller in diameter, but this feature would have been obvious to minimize weight of the assembly. It is obvious that a wheel may be replaced with another for a specific objective, so long as it provides sufficient load-bearing characteristics for the particular application.

Re Claims 19 and 20, the references disclose the respective elements as previously provided. It is not disclosed that the bicycle can be disassembled and packed inside the container, and then reassembled with the trailer carrying travel gear.

However, this capability would have been obvious to one with ordinary skill in the art at the time the invention to allow disassembly/reassembly of the bicycle, and its storage within the container. This dual-purpose configuration is efficient and low-cost.

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E. **Claims 14 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Swan in view of McCarthy, and in further view of Brinkley.

The previous references do not disclose flexible tensioners, while Brinkley shows tensioners 73/74. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include these elements, as shown in Brinkley, to provide proper and low-cost fastening for the container so to increase its structure, and provide means for attachment to another structure, such as a vehicle.

F. **Claims 15, 16, 22 and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Swan in view of McCarthy, and in further view of Kuo.

Re Claims 15 and 22, the previous references do not disclose casters secured to the frame, while Kuo shows these elements 14. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this arrangement, as shown in Kuo, to facilitate transport of the container in an efficient and low-cost manner, and as is well-known.

Re Claims 16 and 23, the previous references do not disclose crossbars securing the cover to the side panels, while Kuo teaches these elements 42 in fig 2. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include these components, as shown in Kuo, to provide additional support for the container so to maximize structural strength, and minimize damage to the bicycle during shipping.

G. **Claims 17, 18, 24 and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Swan in view of McCarthy, and in further view of Brenner 4390088.

The previous references do not disclose the side panels as further including top and bottom hinged panels, while Brenner shows this configuration in fig 2 with two-part panels 19, etc. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this arrangement, as shown in Brenner, to further aid in portability and transportability of the container. Minimization of size is well-known to aid in both objectives.

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6. ALLOWABLE SUBJECT MATTER

a. **Claim 11** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Prior art does not disclose a collapsible shipping container further comprising the base frame as including a body with an extendable arm, swing arms and side walls, and hinges disposed in these components.

b. **Claims 26 and 27** are allowable, the former upon resolution of 112 issues. Prior art does not disclose a collapsible shipping container in combination with a bicycle trailer, as discussed above, including flexible tensioners, casters, and crossbars.


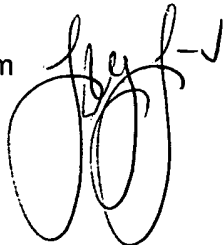
7. The prior art made of record, and not relied upon, is considered pertinent to the disclosure: Everett 6182990, Lickton 6039243, 5520280, Christensen et al 5054800.

8. Communication with USPTO/Examiner

Any inquiry concerning this communication, or others, should be directed to Ms. Lum at 703 305-0232, M-F, 9-6. If attempts to reach the examiner are unsuccessful, her supervisor, Ms. Lesley Morris is at 703 308-0629. Our fax number is 703 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications: private PAIR only, for published applications: private or public PAIR. For more information re PAIR: <http://pair-direct.uspto.gov>. Questions re private PAIR: contact the Electronic Business Center (EBC) at 866 217-9197.

Ms. Lee S. Lum
Examiner
1/5/05



LESLEY D. MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600